IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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R.S.A. No.3074 of 1998
Date of Decision:09.08.2007

Gurdial Singh and another

.....Appellants

Vs.

Jangsher Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Arvind Singh, Advocate for the appellants.

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This appeal was filed in the year 1998. It continued to be adjourned on the request of counsel for the appellants on a number of times and it was only on 18.4.2000 that notice of motion was issued to the respondents. On 9.10.2001, after noticing that the notices could not be issued to the respondents on account of appellants' failure to file the process fee, this Court passed the following order:-

> "Notice of motion was issued in this case on 18.4.2000 and service is not yet complete. A perusal of the record shows that the office is reported that the process could not be issued because the appellants' counsel was not filing PF. Ms. Dalbir Kaur undertakes to file PF today and take dasti summons for effecting service on the respondents for 23.11.2001."

However, still on an undertaking by counsel for the appellants, fresh notices were issued. Because the service was incomplete, on 23.11.2001, again fresh notices were issued on filing of process fee within two weeks. Dasti service was also ordered. On 1.10.2002, again this Court recorded an order that fresh notices could not be issued for want of process fee and fresh addresses and the dasti summons were also not collected. The appeal was ordered to be listed after the needful is done by the appellants. Thereafter, an application bearing C.M No.3224-C of 2005 was filed by the appellants for interim stay even though no effort was made to serve the respondents. It is further evident that none was present to address

arguments in support of the C.M which was dismissed on 29.3.2005. On 10.7.2006, because of non-appearance of counsel for the appellants, the appeal was dismissed for non-prosecution. However, on an application by the appellant, the appeal was restored to its original number on 31.8.2006. Thereafter on 11.5.2007, fresh notices were issued to the respondents for today through dasti process. As per office report no one came to collect the dasti notices.

In view of the facts narrated above, it is clear that the appellants are not interested in pursuing the appeal which was filed way back in 1998 and still pending at the stage of service. Accordingly, the same is dismissed for non-prosecution.

August 09, 2007 **(RAJESH BINDAL)**
renu **JUDGE**